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HOUSE BILL 452 By  
Brown

SENATE BILL 1490  
By Crutchfield

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 15, Part 2; Title 37, Chapter 1, Part 1 and Title 37, Chapter 5, Part 1, relative to juvenile offenders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 5, Part 1, is amended by adding the following as a new, appropriately designated section:

(a) It is the intent of the general assembly that:

(1) the youthful felony offender system established pursuant to subsection

(b) of this section shall benefit the state by providing a sentencing option whereby certain youthful felony offenders may be confined for a determinate period within a secured, controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming;

(2) female and male offenders shall receive equitable treatment in sentencing to the youthful felony offender system and necessary measures shall be taken to establish separate housing for female and male offenders without compromising the equitable treatment of either;

(3) the youthful felony offender system shall be operated as a separate division of the department of children's services and inmates within such system

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shall not be commingled with any other juveniles in the department's custody who have not been sentenced to the youthful felony offender system; and

(4) the youthful felony offender system shall be operated in a manner to ensure that older inmates within such system are not commingled with younger inmates within such system.

(b) The department of children's services shall develop and implement a youthful felony offender system for juvenile felony offenders who are tried, convicted, and sentenced in accordance with the provisions of Section 2 of this act. The youthful felony offender system shall be under the direction and control of the commissioner of the department of children's services. The system shall be based on the following principles:

(1) the system shall teach inmates self-discipline by providing and imposing clear consequences for inappropriate behavior;

(2) the system shall include a daily regimen that involves inmates in physical training; self-discipline exercises; educational, vocational, and work programs; and meaningful social interaction. Such regimen shall include a tiered system established and administered by the department to ensure swift and strict discipline for inmate noncompliance with the daily regimen;

(3) the system shall use staff models and mentors to promote within an inmate the development of socially accepted attitudes and behaviors;

(4) the system shall provide inmates with instruction on problem-solving skills and shall incorporate methods to reinforce the use of cognitive behavior strategies that change inmate orientation away from criminal thinking and behavior;

(5) the system shall promote among inmates the creation and development of new group cultures which result in the application of positive peer influence which promotes behavioral change; and

(6) the system shall, during the period of required parole supervision and after-care, provide inmates the opportunity to gradually re-enter the community while demonstrating the capacity for self-discipline and the attainment of respect for the community.

(c) During any period of incarceration within the youthful felony offender system, no inmate privilege (including, but not necessarily limited to, televisions, radios, entertainment systems, cigarettes, and access to snacks) shall be available or continue to be available to an inmate unless that privilege is first earned by the inmate in accordance with a merit system established for such purpose by the department of children's services.

(d) No form of sentence reduction credits or allowances shall be awarded to any inmate sentenced to the youthful felony offender system, nor shall any inmate receive any form of community release prior to completion of the inmate's determinate sentence.

(e) Subject to the policies and procedures of the state's civil service system, the commissioner of the department of children's services shall be responsible for hiring, transferring, and terminating staff of the youthful felony offender system. In staffing the system, the commissioner shall strive to employ persons who are trained or will be trained in the treatment of juveniles prior to actually working with inmates, who are trained or will be trained to serve as role models and mentors pursuant to Section 1(b)(3) of this act prior to actually serving as role models and mentors, and who are best equipped to enable the system to achieve its goals. The commissioner shall submit recommendations to the department of personnel regarding the classification of positions within the system, taking into account the level of education and training required for such positions.

(f) The youthful felony offender system shall provide for parole supervision and after-care which shall consist of highly structured surveillance; monitoring; as well as educational, treatment, and other after care programs. Parole supervision and after-care

shall be administered and performed by departmental staff. Revocation of parole shall be subject to departmental policies and procedures established pursuant to subsection (h) of this section.

(g) An inmate who is mentally ill or developmentally disabled or who is a danger to himself, herself, or others may be transferred to another facility. Such transfer shall be in accordance with department of children's services policies and procedures.

(h) Acting in consultation with the chief justice of the state supreme court and the commissioner of the department of correction, the department of youth development shall develop and implement policies and procedures for identifying and returning any offender, who cannot successfully complete his or her sentence to the youthful felony offender system, including the period of parole supervision and after-care, to the custody of the criminal court for a revocation hearing and, in appropriate cases, for imposition by the criminal court of the original sentence to the department of correction.

(i) The number of inmates participating in the youthful felony offender system shall be restricted by the department in accordance with the level of resources and funding provided for the system pursuant to state appropriations. The department is encouraged to seek federal and local public funding, including project demonstration funds, as well as private funding and resources, which may be available for the purpose of conducting or enhancing the system.

(j) On or before November 1, 1997, the department shall develop and implement a process for monitoring and evaluating the system.

(k) On or before November 1, 1997, the department of children's services shall submit a report to the governor, the speaker of the senate, the speaker of the house of representatives, and the select committee on children and youth, that includes, but is not necessarily limited to, the following:

(1) the specific content and structure of the programs for inmates in the youthful felony offender system, including staffing ratios for each program, a

description of the daily routine of offenders that includes the amount of inmate time that is allocated to each program, and an explanation of how the programs are related to the principles described in subsection (b) of this section;

(2) the policies and procedures used for transition to parole supervision and after-care, whether inmates may be returned to their original environment for the parole and after-care period, the specific means of parole supervision and after care, and the specific educational and treatment programs provided to inmates during the parole and after-care period;

(3) the policies and procedure for transferring an inmate to another facility when an inmate is mentally ill or developmentally disabled or when an inmate poses a danger to himself, herself or others; and identification of the facilities used for such purposes;

(4) The specific criteria and procedures for determining successful completion of the programs in the youthful felony offender system, for determining whether a participant cannot successfully complete his or her sentence to the youthful felony offender system, and for revocation of participation in the system.

(l) Beginning July 1, 1998, and each July 1st thereafter, the department of children's services shall submit an annual report to the state building commission; the finance, ways and means committee of the senate; the finance, ways and means committee of the house of representatives; the children and family affairs committee of the house of representatives; and the select committee on children and youth; concerning the number of inmates entering the youthful felony offender system and a profile of the typical inmate, including demographic and criminal history backgrounds of such inmates.

SECTION 2. Tennessee Code Annotated, Section 37-1-134, is amended by adding the following as a new, appropriately designated subsection:

( ) Notwithstanding any provision of this chapter or any other law to the contrary, a child, who is tried and convicted of a felony offense in criminal court pursuant to the provisions of this section, at the discretion of the criminal court may be sentenced to the youthful felony offender system created pursuant to Section 1 of this act. In order to sentence a child to the youthful felony offender system, the criminal court must first impose upon the child a sentence to the department of correction that is statutorily appropriate for the felony for which the child was convicted. The criminal court shall thereafter suspend such sentence conditioned on the child's successful completion of a sentence to the youthful felony offender system, including a fixed period of parole supervision and after-care. The criminal court shall impose any sentence to the youthful felony offender system for a determinate period of not less than one (1) year nor more than seven (7) years, to be served within a secured environment, and for an additional mandatory five (5) year period of parole supervision and after-care. Upon successful completion of the programs in the youthful felony offender system, including the mandatory period of supervision and after-care, the sentence to the department of correction shall be deemed to have been completed. If an offender is returned to the criminal court pursuant to Section 1(h) of this act and the court concurs in the finding of the department of children's services that the offender cannot successfully complete his or her sentence to the youthful felony offender system, including the period of parole supervision and after-care, then the court shall revoke the offender's sentence to the youthful felony offender system and shall impose the offender's original sentence to the department of correction.

SECTION 3. Tennessee Code Annotated, Section 3-15-205, is amended by adding the following as a new, appropriately designated item:

( ) monitor and evaluate the department of children's services, youthful offender system;

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect on July 1, 1997; and the youthful offender system shall become operational on January 1, 1998.